

35 U.S.C. § 251 Defective Reissue Oath/Declaration Rejections

Claims 1 through 32 stand rejected under 35 U.S.C. § 251 as being based upon an allegedly defective reissue declaration. Applicant respectfully traverses portions of this rejection and is filing a Supplemental Reissue Declaration herewith to overcome this objection.

The reissue oath/declaration filed with this application is allegedly defective because it fails to contain the statement required under 37 C.F.R. § 1.175(a)(1) as to applicant's belief that the original patent is wholly or partly inoperative or invalid. The original Reissue Declaration filed with the Office on December 6, 1996, specifically states the following:

I have reviewed and understand the contents of the above-identified specification, including the claims, being claims 1 through 6 as originally issued in U.S. Patent No. 5,348,164 and new claims 7-32 as first presented herein. Upon information and belief, the original patent is partly inoperative by reason of my claiming less than I had a right to claim in originally-issued claims 1-6 of U.S. Patent No. 5,348,164. (emphasis added)

This statement comports with the requirements of 37 C.F.R. § 1.175(a)(1) and the suggested language described in MPEP § 1414. Applicant respectfully requests that the Examiner withdraw the rejection based upon this alleged defect.

The reissue oath/declaration filed with the reissue application is also allegedly defective because the inventor does not state whether they are the sole or joint inventor pursuant to 37 C.F.R. § 1.63(a)(4). Applicant has overcome this rejection in the Supplemental Reissue Declaration by alleging that the Applicant is the sole inventor of the invention claimed.

The Supplemental Reissue Declaration submitted concurrently herewith corrects the alleged defects in the original Reissue Declaration. Applicant respectfully requests allowance of the current application.

Claims 7 through 32 stand rejected under 35 U.S.C. § 251 as being improperly broadened in a reissue application made and sworn to be the assignee and not the patentee. Applicant respectfully traverses this rejection, as hereinafter set forth.

The original Reissue Declaration filed with the Office on December 6, 1996, was made a sworn to by the patentee Steve W. Heppler. A Supplemental Reissue Declaration, submitted herewith, is also made and sworn to by the patentee, Steve W. Heppler, and not the assignee. This complies with the requirements of 35 U.S.C. § 251, therefore, the rejection should be withdrawn and the application allowed for issue.

Original Patent

Pursuant to the Examiner's request, applicant submits herewith original U.S. Letters Patent No. 5,348,164 under cover of a separate Communication Transmitting Letters Patent.

CONCLUSION

Claims 1-32 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Respectfully Submitted,



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